

Application for
intentionally
MAR 30 2006
PATENTS
22313-1
TRADE MARK OFFICE

1. Entity Status:
☐ Applicant claims small entity status

2. Request to Enter
☒ Request is hereby made to enter **Amendment filed on November 14, 2005**

3. Papers included with Petition:

- ☒ Application initiation form (Continuation under 37CFR 1.53(b), or RCE under 37CFR1.114)
- ☐ The following papers:
- ☐ Statutory (Terminal) Disclaimer
- ☐ Issue fee Form
- ☐ Proof the papers had been submitted on

4. Fees included:

☐ Petition Fee, in the amount of

☐ Issue fee


☐ Statutory (Terminal) Disclaimer


☒ Application initiation as specified in form referred to above.

☐ Proof the Fee had been submitted on

5. Statement:
The entire delay in filing the required reply, from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b), was unintentional.

6. Additional Statement (if needed): **The previously filed Petition to Revive was dismissed even though, in Applicant's view it should have been granted because the Amendment enclosed with the Petition was fully responsive. It was fully responsive because it demonstrated to the Examiner that the previously filed Final Office Action was in error (as the Examiner told Applicant's representative in a telephone conversation of 2/14/2006). To expedite prosecution, however, this Renewed Petition is submitted, and it is understood that no additional fee is necessary. However, if as indicated above, the Commissioner is authorized to charge the above-identified account, if necessary.**

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm or Individual Name	Henry T. Brendzel	Reg No.: 26,844
Signature		Date 3/28/06

CERTIFICATE OF MAILING OR TRANSMISSION		
I hereby certify that this correspondence is being		
<input checked="" type="checkbox"/> deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelop addressed to the Assistant Commissioner for Patents, Washington D.C. 20231, mail stop as shown above, on the date shown below.		
<input type="checkbox"/> Transmitted by facsimile to the USPTO on the date shown below.		
<u>HENRY BRENDZEL</u> Name of Person Signing	<u></u> Signature	<u>3/28/06</u> Date

03/21/2006 TUESDAY 00000004 09840230
01 TC: T001 - 739.00 DE



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OFFICE OF PETITIONS

ON PETITION

In re Application of
Stuart Gerald Stubblebine
Application No. 09/840,230
Filed: April 24, 2001
Attorney Docket No. 2455-4230US3

This is a decision on the petition under 37 CFR 1.137(b), filed November 14, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item 1.

It is noted that an amendment, in response to the final Office action mailed June 17, 2004, was included with the petition filed on November 14, 2005. However, the amendment is considered non-responsive, since it does not place the application in condition for allowance. See the attached copy of an Advisory Action. The proposed reply required for consideration of a petition to revive this application must be a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)), an

¹ As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

amendment that *prima facie* places the application in condition for allowance, or the filing of a submission under 37 CFR 114 (RCE) or a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

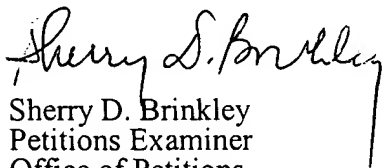
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
 Customer Service Window, Mail Stop PETITION
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Advisory Action

cc: HENRY BRENDZEL
 PO BOX 574
 SPRINGFIELD, NJ 07081